

1 SENATE BILL 22

2 **48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007**

3 INTRODUCED BY

4 Steve Komadina

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10 AN ACT

11 RELATING TO HEALTH CARE PROVIDERS; PROVIDING LIMITED LIABILITY
12 FOR LICENSED HEALTH CARE PROVIDERS DURING A PUBLIC HEALTH
13 EMERGENCY.

14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

16 Section 1. Section 12-10A-3 NMSA 1978 (being Laws 2003,
17 Chapter 218, Section 3) is amended to read:

18 "12-10A-3. DEFINITIONS.--As used in the Public Health
19 Emergency Response Act:

20 A. "attorney general" means the attorney general
21 for the state of New Mexico;

22 B. "court" means the district court for the
23 judicial district where a public health emergency is occurring,
24 the district court for Santa Fe county or, in the event that a
25 district court cannot adequately provide services, a district

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1 court designated by the New Mexico supreme court;

2 C. "director" means the director of homeland
3 security;

4 D. "health care provider" means a person licensed
5 to provide health care in New Mexico, including:

6 (1) an optometrist;

7 (2) a chiropractic physician;

8 (3) a dentist;

9 (4) a physician;

10 (5) a podiatrist;

11 (6) an osteopathic physician;

12 (7) a physician assistant;

13 (8) a certified nurse practitioner;

14 (9) a physical therapist;

15 (10) an occupational therapist;

16 (11) a speech-language pathologist;

17 (12) a doctor of oriental medicine;

18 (13) a nutritionist;

19 (14) a psychologist;

20 (15) a certified nurse-midwife;

21 (16) a clinical nurse specialist;

22 (17) a registered nurse;

23 (18) a dental hygienist; or

24 (19) a pharmacist;

25 [~~D.~~] E. "health care supplies" means medication,

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1 durable medical equipment, instruments, linens or any other
2 material that the state of New Mexico may need to use in a
3 public health emergency, including supplies for preparedness,
4 mitigation and recovery;

5 ~~[E.]~~ F. "health facility" means:

6 (1) a facility licensed by the state of New
7 Mexico pursuant to the provisions of the Public Health Act;

8 (2) a non-federal facility or building,
9 whether public or private, for-profit or nonprofit, that is
10 used, operated or designed to provide health services, medical
11 treatment, nursing services, rehabilitative services or
12 preventive care;

13 (3) a federal facility, when the appropriate
14 federal entity provides its consent; or

15 (4) the following properties when they are
16 used for, or in connection with, health-related activities:

- 17 (a) laboratories;
18 (b) research facilities;
19 (c) pharmacies;
20 (d) laundry facilities;
21 (e) health personnel training and
22 lodging facilities;
23 (f) patient, guest and health personnel
24 food service facilities; and
25 (g) offices or office buildings used by

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1 persons engaged in health care professions or services;

2 [F-] G. "isolation" means the physical separation
3 for possible medical care of persons who are infected or who
4 are reasonably believed to be infected with a threatening
5 communicable disease or potential threatening communicable
6 disease from non-isolated persons, to protect against the
7 transmission of the threatening communicable disease to
8 non-isolated persons;

9 [G-] H. "public health emergency" means the
10 occurrence or imminent threat of exposure to an extremely
11 dangerous condition or a highly infectious or toxic agent,
12 including a threatening communicable disease, that poses an
13 imminent threat of substantial harm to the population of the
14 state of New Mexico or any portion thereof;

15 [H-] I. "public health official" means the
16 secretary of health or [~~his~~] the secretary's designee,
17 including a qualified public individual or group or a qualified
18 private individual or group, as determined by the secretary of
19 health;

20 [I-] J. "quarantine" means the precautionary
21 physical separation of persons who have or may have been
22 exposed to a threatening communicable disease or a potentially
23 threatening communicable disease and who do not show signs or
24 symptoms of a threatening communicable disease, from non-
25 quarantined persons, to protect against the transmission of the

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1 disease to non-quarantined persons;

2 [J-] K. "secretary of health" means the secretary
3 of health or [~~his~~] the secretary's designee;

4 [K-] L. "secretary of public safety" means the
5 secretary of public safety or [~~his~~] the secretary's designee;
6 and

7 [~~H-~~] M. "threatening communicable disease" means a
8 disease that causes death or great bodily harm that passes from
9 one person to another and for which there are no means by which
10 the public can reasonably avoid the risk of contracting the
11 disease. "Threatening communicable disease" does not include
12 acquired immune deficiency syndrome or other infections caused
13 by the human immunodeficiency virus."

14 Section 2. Section 12-10A-14 NMSA 1978 (being Laws 2003,
15 Chapter 218, Section 14) is amended to read:

16 "12-10A-14. IMMUNITY.--

17 A. During a state of public health emergency, the
18 state, its political subdivisions, the governor, the secretary
19 of health, the secretary of public safety, the director or any
20 other state or local officials or personnel who assist during
21 the public health emergency are liable for the death of a
22 person, injury to a person or damage to property, only to the
23 extent permitted in the Tort Claims Act, as a result of
24 complying with the provisions of the Public Health Emergency
25 Response Act or a rule adopted pursuant to that act.

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1 B. A health care provider who, voluntarily and
2 without the expectation or receipt of compensation, provides
3 health care to a person in response to a public health
4 emergency declared by the governor is not liable for injury or
5 death to the person or damage to the person's property as the
6 result of an act or failure to act in providing the health care
7 if the:

8 (1) health care is provided during the time
9 and at the place of the public health emergency;

10 (2) health care provided is within the scope
11 of the provider's health care license;

12 (3) health care provided is intended to
13 prevent or minimize harm to the person; and

14 (4) injury, death or damage was not caused by
15 willful misconduct, gross negligence or bad faith."

16 Section 3. EFFECTIVE DATE.--The effective date of the
17 provisions of this act is July 1, 2007.